Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of)
)
Petition for Reconsideration)
of Schedule for Auction of 168)
Licenses in the Local Multipoint)
Distribution Service)

ORDER

Adopted: January 19, 1999 Released: January 20, 1999

By the Deputy Chief, Wireless Telecommunications Bureau:

- 1. On November 6, 1998, the Wireless Telecommunications Bureau ("Bureau") announced that an auction for Local Multipoint Distribution Service ("LMDS") spectrum, Auction Event No. 23, would begin on April 27, 1999. On December 7, 1998, a Petition for Reconsideration ("Petition") was filed by Sully Buttes Telephone Cooperative, Inc., Adams Telcom, Inc., and New Wave Networks, LLC (collectively, "Joint Petitioners"), seeking to postpone by at least 60 days the LMDS auction start date, and all associated deadlines. For the reasons discussed below, we deny the Petition.
- 2. Joint Petitioners' primary concern is that the LMDS auction is scheduled to start soon after the Broadband Personal Communications Services ("PCS") auction (Auction Event No. 22), which is set to begin on March 23, 1999. Specifically, Joint Petitioners claim that rural telephone companies and small businesses will be harmed by the potential for overlapping auction schedules because they do not have the resources to make business plans, analyze round results, and devise bidding strategies for two auctions simultaneously.² They also claim that the overlapping schedule runs contrary to the statutory requirement that the Commission facilitate participation of small businesses in spectrum auctions.³ We are not persuaded that the scheduling of the Broadband PCS and LMDS auctions will cause undue hardship for smaller entities that intend to participate in both auctions. The auctions begin a full month apart, allowing Joint Petitioners

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¹ See "Local Multipoint Distribution Service Spectrum Re-Auction of 168 Licenses Scheduled for April 27, 1999; Application Deadline Set for March 29, 1999; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures," *Public Notice*, DA 98-2266 (rel. November 6, 1998) ("*LMDS Public Notice*"), 63 FR 64502-01 (November 20, 1998).

² Petition at 4-5.

³ *Id.* at 5-7.

sufficient time to prepare for both. We recognize that participating in two auctions simultaneously can be administratively difficult, but not insurmountable. If a substantial number of bidders are participating in both auctions (assuming that the Broadband PCS auction does not end prior to the start of the LMDS auction), we will factor their concerns into our round scheduling decisions.

- 3. Joint Petitioners suggest that because business discussions concerning LMDS might shed light on PCS spectrum bidding strategy, and vice versa, they must cease LMDS discussions with investors as of the short-form application deadline for the LMDS auction pursuant to the anti-collusion rule, 47 C.F.R. § 1.2105(c). They believe this will constrict their ability to engage in strategic planning and negotiations for the LMDS auction⁴ We believe that potential applicants for each of these auctions have had ample time to engage in business discussions, in view of the early announcement dates of these two auctions. The Broadband PCS auction date was announced on August 19, 1998, and the LMDS auction date was announced on November 6, 1998.⁵
- 4. Accordingly, Joint Petitioner's Petition for Reconsideration IS HEREBY DENIED. This action is taken under delegated authority pursuant to Section 0.331 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen Ham Deputy Chief, Wireless Telecommunications Bureau

⁴ *Id.* at 9.

⁵ The date of the Broadband PCS auction was announced on August 19, 1998 and the LMDS auction date was announced on November 6, 1998. *See* Wireless Telecommunications Action: Rules for C Block Auction Adopted, *Press Release*, Report No. WT 98-26 (rel. August 19, 1998); *LMDS Public Notice*.